No. 260

FILED
SEP 19 1925
WM. R. STANSBURY
CLERK

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM—1925.

PANAMA RAILROAD COMPANY,
Plaintiff-in-Error,

against

AGUIPITO VASQUEZ, as administrator of the goods, chattels, and credits which were of MAXIMILIANO SANCHES, deceased,
Defendant-in-Error.

Motion to Advance Case on Calendar.

FREDERICK R. GRAVES,
Attorney for Defendant-in-Error,
No. 29 Broadway,
New York City.

RICHARD R. ROGERS,
Attorney for Plaintiff-in-Error,
No. 63 Wall Street,
New York City.

Supreme Court of the United States

OCTOBER TERM—1925.

PANAMA RAILROAD COMPANY,
Plaintiff-in-error,

AGAINST

AGUIPITO VASQUEZ, as administrator of the goods, chattels, and credits which were of MAXIMILIANO SANCHES, deceased,
Defendant-in-error.

Notice of Motion.

SIRS:

PLEASE TAKE NOTICE that on the annexed affidavit of Frederick R. Graves, and of Arthur Lavenburg, and on all the papers and proceedings herein, I shall submit to the Supreme Court of the United States, at a stated term thereof, on Monday, October 5th, 1925, at The Capitol in the City of Washington, in the District of Columbia, at opening of court on said day or as soon thereafter as counsel may be heard, a motion, of which the foregoing is a copy, and I shall

submit with said motion and in support of the same the argument advanced in the annexed affidavits.

Dated, New York, September 12th, 1925.

Your etc.,

FREDERICK R. GRAVES,
Attorney and Counsel,
for the Defendant-in-Error,
29 Broadway, New York, N. Y.

To:

RICHARD REID ROGERS,
Attorney for Plaintiff-in-Error,
63 Wall Street,
New York City.

Motion to Advance Case on Calendar.

SUPREME COURT OF THE
UNITED STATES,

OCTOBER TERM—1925.

PANAMA RAILROAD COMPANY,
Plaintiff-in-error,

AGAINST

AGUIPITO VASQUEZ, as administrator of the goods, chattels, and credits which were of MAXIMILIANO SANCHES, deceased,
Defendant-in-error.

Now comes AGUIPITO VASQUEZ, administrator as aforesaid, the defendant-in-error, by Frederick R. Graves, his counsel, and moves this court to advance the hearing and argument of the above stated case on the calendar of the court for the reason that the question presented for determination on the record is whether or not the state courts have jurisdiction of actions brought under the Act of Congress of June 5th, 1920, commonly known as the Jones' Act. There are numerous cases now pending in the state courts and brought under the provisions of the Jones' Act, the trials of which said actions are being held up awaiting the determination of the question presented to this court in this case, and if consideration of this case awaits its regular appearance on the

calendar of this court it is apprehended that the Statute of Limitations will intervene to bar the bringing of actions in the Federal courts should this court decide that the state courts have not jurisdiction under the Jones' Act, and for this reason motion is made to advance the argument of this case so that in the event it is decided that the state courts have not jurisdiction then and in that event the litigants in the actions now pending may preserve their rights by starting actions in courts having jurisdiction.

Yours, etc.,

FREDERICK R. GRAVES,
Attorney and Counsel,
For Defendant-in-Error.

Affidavit of Frederick R. Graves, in Support of Motion.

SUPREME COURT OF THE
UNITED STATES,

OCTOBER TERM—1925.

PANAMA RAILROAD COMPANY,
Plaintiff-in-error,

AGAINST

AGUIPITO VASQUEZ, as administrator of the goods, chattels, and credits which were of MAXIMILIANO SANCHES, deceased,
Defendant-in-error.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

FREDERICK R. GRAVES, being duly sworn, deposes and says:

That he is the attorney and counsel for the defendant in error in the above stated case.

Deponent states that the question presented by the record in said case is whether or not the state courts have jurisdiction to entertain actions brought under the provisions of the Act of Congress of June 5, 1920, commonly known as the Jones' Act which Act makes applicable to seamen the provisions of the Federal Employers Liability Act.

Deponent states that he is the attorney for the plaintiff in about a hundred cases now pending in the state courts, trials in which have not

been had for the reason that he is awaiting determination of the jurisdictional question raised by this record; and upon information and belief other attorneys having numerous other cases of similar nature have assumed the same attitude.

Deponent says that in a great majority of cases now pending in the state courts the statute of limitations will soon expire and bar the bringing of another action and in the event this court should decide that the state courts have not jurisdiction over actions brought under the provisions of the Jones' Act the litigants in the state court cases now pending will have to bring their actions in another court, and unless this question is decided with considerable promptness the bar of the statute of limitations will very likely intervene to prevent the bringing of other actions, in which event the litigants would be denied and deprived of a day in court and go without redress for their wrongs.

Deponent says that it is of the utmost importance to these many litigants that the question presented by this record be determined before the statute of limitations operates to bar the bringing of another suit.

Therefore deponent moves and prays this court to advance the hearing and argument of this case on the calendar.

FREDERICK R. GRAVES.

Sworn to before me this
11th day of September, 1925.

SIMONE N. GAZAN,
Notary Public.
New York County Clerk's No. 427,
New York County Register's No. 7403,
My Commission expires March 30, 1927.

Affidavit of Arthur C. Lavenburg, in Support of Motion.

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM—1925.

PANAMA RAILROAD COMPANY,
Plaintiff-in-error,

AGAINST

AGUIPITO VASQUEZ, as administrator of the goods, chattels, and credits which were of MAXIMILIANO SANCHES, deceased,
Defendant-in-error.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

ARTHUR LAVENBURG, being duly sworn, deposes and says:

That he is an attorney at law and a member of the Bar of the State of New York.

Deponent says that he is counsel of record for a number of seamen who have actions for damages for personal injuries pending in the state courts under the provisions of the Act of Congress of June 5th, 1920, commonly known as the Jones' Act.

Trial of these actions have been deferred awaiting a determination of the question before this court as to whether or not state courts have

jurisdiction to entertain actions under the provisions of the Jones Act.

Deponent says that a number of his cases are cases in which the causes of action arose nearly two years ago and that they will soon be barred by the statute of limitations for which reason it is desirable that the jurisdictional question now before this court may be decided promptly and before the statute of limitations operates to bar the actions.

ARTHUR LAVENBURG.

Sworn to before me this
11th day of September, 1925.

SIMONE N. GAZAN,
Notary Public.
New York County Clerk's No. 427,
New York County Register's No. 7403,
My Commission expires March 30, 1927.